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Attorney for Plaintiff D.L.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

A.B. and S.B., Minors, by and through
Erin K. Olson, their Conservator, and
D.L.,

Plaintiffs,

v.

ANDREW FRANKLIN KOWALCZYK,

Defendant.

Case No. 3:19-cv-01521

COMPLAINT

18 U.S.C. § 2255(a)

Plaintiffs A.B. and S.B, minor females, by and through their duly-appointed conservator,
Erin K. Olson, and D.L., an adult female, allege as follows:

NATURE OF THE ACTION

1.

This is a suit for damages arising out of Defendant's criminal sexual exploitation of three children, in violation of 18 U.S.C. § 2251(a).

JURISDICTION AND VENUE

2.

Federal subject matter jurisdiction is proper pursuant to 28 U.S.C. § 1331 because this is a civil action arising under federal law, 18 U.S.C. § 2255.

3.

Venue is proper pursuant to 28 U.S.C. §§ 1391(b)(1) and (2) because this is a civil action brought in the judicial district where the Defendant resides, and a substantial part of the events giving rise to the Plaintiffs' claim occurred in this judicial district.

FIRST CLAIM FOR RELIEF – A.B. - 18 U.S.C. § 2255(a)

4.

Plaintiff A.B. alleges and incorporates herein paragraphs 1-3.

5.

Plaintiff A.B. is a minor, born in 2003, who is identified in this action using her initials in accordance with FRCP 5.2(a)(3). She appears through her duly-appointed conservator, Erin K. Olson.

6.

Defendant is an adult male who presently resides in Portland, Multnomah County, Oregon.

7.

When Plaintiff A.B. was two years old, Defendant knowingly employed, used, persuaded, induced, enticed, and coerced her to engage in sexually explicit conduct, including sexual intercourse and the lascivious exhibition of her genitals and pubic area, for the purpose of producing visual depictions of such conduct, said visual depictions having been transported in interstate commerce, and having been produced using materials that were mailed, shipped, and transported in interstate or foreign commerce by any means, all in violation of Title 18, United States Code, Sections 2251 (a) and 2251 (e).

8.

On December 6, 2018, a federal criminal jury convicted Defendant, among other charges, of Counts 1, 3, 5, and 8 of the superseding indictment in *United States of America v. Andrew Franklin Kowalczyk*, D. Or. Case No. 3:08-cr-00095-MO, each of which charged Defendant with Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251(a), for conduct alleged in paragraph 7. The Court sentenced Defendant to 30 years in prison on each of Counts 1, 3, 5, and 8, with lifetime supervised release.

9.

As found by a jury, Defendant violated 18 U.S.C. § 2251 by engaging in the conduct alleged in paragraph 7. In so doing, Defendant caused Plaintiff A.B. to suffer personal injury.

10.

Pursuant to 18 U.S.C. § 2255(a), Plaintiff A.B. is entitled to damages of \$150,000 and the cost of this suit including a reasonable attorney's fee.

SECOND CLAIM FOR RELIEF – S.B. - 18 U.S.C. § 2255(a)

11.

Plaintiff S.B. alleges and incorporates herein paragraphs 1-3 and 6.

12.

Plaintiff S.B. is a minor, born in 2003, who is identified in this action using her initials in accordance with FRCP 5.2(a)(3). She appears through her duly-appointed conservator, Erin K. Olson.

13.

When Plaintiff S.B. was two years old, Defendant knowingly employed, used, persuaded, induced, enticed, and coerced her to engage in sexually explicit conduct, including sexual intercourse and the lascivious exhibition of her genitals and pubic area, for the purpose of producing visual depictions of such conduct, said visual depictions having been transported in interstate commerce, and having been produced using materials that were mailed, shipped, and transported in interstate or foreign commerce by any means, all in violation of Title 18, United States Code, Sections 2251 (a) and 2251 (e).

14.

On December 6, 2018, a federal criminal jury convicted Defendant, among other charges, of Counts 2, 4, 6, and 9 of the superseding indictment in *United States of America v. Andrew Franklin Kowalczyk*, D. Or. Case No. 3:08-cr-00095-MO, each of which charged Defendant with Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251(a), for conduct alleged in paragraph 13. The court sentenced Defendant to 30 years in prison on each of Counts 2, 4, 6, and 9, with lifetime supervised release.

15.

As found by a jury, Defendant violated 18 U.S.C. § 2251 by engaging in the conduct alleged in paragraph 13. In so doing, Defendant caused Plaintiff S.B. to suffer personal injury.

16.

Pursuant to 18 U.S.C. § 2255(a), Plaintiff S.B. is entitled to damages of \$150,000 and the cost of this suit including a reasonable attorney's fee.

THIRD CLAIM FOR RELIEF – D.L. - 18 U.S.C. § 2255(a)

17.

Plaintiff D.L. alleges and incorporates herein paragraphs 1-3 and 6.

18.

Plaintiff D.L. was born in 1996, and at all relevant times was a minor. She is identified in this action using her initials in accordance with FRCP 5.2(e)(1) based on the simultaneously-filed motion for a protective order.

19.

When Plaintiff D.L. was 8-9 years old, Defendant knowingly employed, used, persuaded, induced, enticed, and coerced her to engage in sexually explicit conduct, including sexual intercourse and the lascivious exhibition of her genitals and pubic area, for the purpose of producing visual depictions of such conduct, said visual depictions having been transported in interstate commerce, and having been produced using materials that were mailed, shipped, and transported in interstate or foreign commerce by any means, all in violation of Title 18, United States Code, Sections 2251 (a) and 2251 (e).

20.

On December 6, 2018, a federal criminal jury convicted Defendant, among other charges, of Count 7 of the superseding indictment in *United States of America v. Andrew Franklin Kowalczyk*, D. Or. Case No. 3:08-cr-00095-MO, which charged Defendant with Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251(a), for conduct alleged in paragraph 19. The court sentenced Defendant to 30 years in prison on Count 7, with lifetime supervised release.

21.

As found by a jury, Defendant violated 18 U.S.C. § 2251 by engaging in the conduct alleged in paragraph 19. In so doing, Defendant caused Plaintiff D.L. to suffer personal injury.

22.

Pursuant to 18 U.S.C. § 2255(a), Plaintiff D.L. is entitled to damages of \$150,000 and the cost of this suit including a reasonable attorney's fee.

DEMAND FOR JUDGMENT

WHEREFORE, Plaintiffs request judgment against the Defendant as follows:

- A. For each plaintiff, statutory damages of \$150,000 pursuant to 18 U.S.C. § 2255(a); and
- B. For each plaintiff, the costs of this suit pursuant to 18 U.S.C. § 2255(a) including reasonable attorney fees.

DATED this 19th day of September, 2019.

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